

**Applicant:** Marks de Chabris et al.  
**Application No.:** 09/770,108

## **REMARKS**

The May 11, 2004 Office Action incorrectly states that claims 1 and 5-27 are currently pending in this application. Please note that claims 1 and 4-27 are currently pending in this application, and by way of this Reply, claims 1 and 10-22 have been amended.

Claims 1, 10, 16 and 22-27 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and claim the invention.

Specifically, claims 22-27 were rejected under 35 U.S.C. § 101 as non-statutory. The Examiner indicated the term “carrying” is insufficient to meet the requirement that a computer readable medium must positively recite that the instructions are encoded with a data structure on the computer readable medium. Accordingly, claim 22 has been amended to recite the term “comprising,” which is believed to obviate the rejection of these claims.

Claim 16 was rejected as being vague and indefinite based on the recitation of the term “computer based” in the preamble, and claims 1, 10, and 16 were rejected as being vague and indefinite based on the recitation of the term “order matching” in the preamble. Accordingly, these claims have been amended to more accurately reflect the invention and to obviate these rejections.

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Claims 1 and 4-21 were rejected under 35 U.S.C. § 101 as non-statutory under the assertion that these claims as presented do not claim a technological basis. It is respectfully submitted that independent claims 1, 10, and 16 have been amended to distinctly claim a technological basis. Specifically, the method of amended claim 1 is implemented on a computer. Claim 10, as amended, recites a system for implementing the claimed method on a computer; the system including data storage, schedule supervisor software and transaction supervisor software. Claim 16, as amended, relates to a *system* comprising a database server, a schedule supervisor server and a transaction supervisor server. Accordingly, Applicants respectfully request that the §101 rejections of claims 1 and 4-21 be withdrawn.

Claims 1 and 4-27 were also rejected under 35 U.S.C. 103(a) as being unpatentable over Ordish (U.S. Patent No. 5,727,165) in view of Buist (U.S. Patent No. 6,408,282). For the reasons set out below, Applicants respectfully traverse this rejection because the Examiner failed to make a *prima facie* case of obviousness as required under 35 USC 103(a).

Independent claim 1, as amended, recites a method of coordinating and timing orders using an order manager operating on a computer. The order manager is capable of communicating with a transaction destination over a communication network. The method as claimed involves the steps of:

- a) receiving an order definition at the order manager, the order definition defined by an evaluation heuristic identifying a plurality of transaction instances, each said transaction instance identifying an order, the transaction destination and a predefined time instant for execution of the order with the transaction destination;
- b) at the predefined time instant associated with one of the transaction instances, transmitting over the communications network to the associated transaction destination an order message identifying the associated order; the predefined time instant, the order and the transaction destination of the order message being determined in accordance with the evaluation heuristic;
- c) receiving from the associated transaction destination over the communications network a completion message identifying a completion status of the order at the transmitted transaction destination; and
- d) repeating steps b) and c) in accordance with the completion status and the evaluation heuristic to coordinate and time the order.

The Examiner asserted that the recitation of a transaction destination and a time instant for the order is inherent from Ordish because electronic communication has destinations and time instances *per se*. Regardless, Applicants submit that Ordish does not disclose using an order definition comprising a plurality of transaction instances, wherein each said transaction instance identifies an order,

the transaction destination and a predefined time instant for execution of the order with the transaction destination.

The Examiner also asserted that it would have been obvious to update or revise an order because Buist teaches a continual change in market condition. However, Buist does not disclose repeatedly placing orders at predefined times in accordance with a heuristic by transmitting order messages defined by a common order definition, and receiving completion messages identifying the completion status of each order, as required by claim 1, paragraph (d).

In addition, the Examiner indicated that it would have been obvious to transmit at time instances associated with one of the transaction instances because Buist teaches a need to transact after normal market hours. While Buist does teach the need to transact after normal market hours, Buist does not teach transmitting an order to a transaction destination at a predefined time instance in accordance with an evaluation heuristic.

As described by the amended claims, the order message identifying the associated order is transmitted to the associated destination at the *predefined* time instant associated with the transaction instance. In addition, the order and the transaction destination of the order message are determined in accordance with the evaluation heuristic. Accordingly, the present invention can automatically modify orders and destinations in accordance with the evaluation heuristic at predefined

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time instances, which can provide a significant advantage over the prior art. Neither Ordish nor Buist, either alone or in combination, describe these features.

Because claims 4 to 9 depend upon independent claim 1, the foregoing also applies to the invention recited in those claims. In addition, the aforementioned characteristics that distinguish claim 1 of the present invention over the prior art equally apply to distinguish apparatus claims 10-27 over the cited prior art. Accordingly, Applicants respectfully request that the §103(a) rejections of claims 1 and 4-27 be withdrawn.

For the above reasons, Applicants respectfully submit that the presently claimed invention is patentable over the prior art. Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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Enclosure